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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/700,341

11/04/2003

Shlomit Chasid

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06/29/2006

NATH & ASSOCIATES

112 South West Street

Alexandria, VA 22314

EXAMINER

WAGGONER, TIMOTHY R

ART UNIT

PAPER NUMBER

3651

DATE MAILED: 06/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/700,341	Applicant(s) CHASID ET AL.	
	Examiner Timothy R. Waggoner	Art Unit 3651	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 and 20-31 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>05/15/2006</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-12,14-17,21-23, 27-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Margulies USPN 4,526,291.

Margulies discloses a dispenser comprising:

(Re claim 1) "dispensing aperture" (8 figure 5). "manipulating opening" (44 figure 5). "a flap for normally closing said manipulating opening" (10 figure 5). "wherein at least a portion of said dispensing aperture is comprised on said flap" (20 figure 5). "aperture and the manipulating opening are coverable" (figure 2).

(Re claim 2) "tissue dispensing aperture and the manipulating opening are coverable, by a re-closable lid. (12 figure 2).

(Re claim 3) "aperture is spaced apart from the lid" (32 figure 4).

(Re claim 4) "tissue dispensing aperture is formed on the flap of the manipulating opening" (20 figure 5).

(Re claim 5) "flap is rigid and hinged to a portion of the dispenser" (14 figure 5).

(Re claim 6) "dispensing aperture is formed on the manipulating opening" (20 figure 5).

(Re claim 7) "dispenser is hinged to the dispenser by an integral hinge" (14 figure 5)

(Re claim 8) "flap is rigid though pliable" (10 figure 5).

(Re claim 9) "flap is fitted with a pulling tab" (16 figure 2).

(Re claim 10) "flap is fitted with a pulling recess" (18 figure 2).

(Re claim 11) "tissue dispensing aperture constitutes the pulling recess" (18 figure 2).

(Re claim 12) "attached to a surface of a disposable tissue" (6 figure 1)

(Re claim 14) "aperture is fitted with friction arrangements to enhance engagement with tissue projecting there through" (22 figure 5).

(Re claim 15) "friction arrangements are in the form of projectons into a path of the aperture" (20 figure 5).

(Re claim 16) "friction arrangements are in the form of undulants of a path of the aperture" (20 figure 5).

(Re claim 17) "wherein the lid sealing covers the tissue dispensing aperture and the manipulating opening" (12 figure 2).

(Re claim 21) "flap and an edge of the manipulating opening are formed with an engaging member to prevent unintended deformation of the flap" (28 figure 4).

(Re claim 22) "tissue dispensing aperture has a Y-like shape" (18,20 figure 4).

(Re claim 23) "tissue package fitted with a dispenser" (figure 1).

(Re claim 27) "tissue dispensing aperture" (18 figure 5). "manipulating opening" (44 figure 5). "a flap for normally closing the manipulating opening" (10 figure 5). "dispensing opening is comprised on said flap" (20 figure 5). "dispensing aperture and the manipulating opening are covered by a lid" (12 figure 2).

(Re claim 28) "dispensing aperture is deformable" (20 figure 5).

(Re claim 29) "dispensing opening is defined by a perimeter and wherein said flap comprises a part of said perimeter" (18 figure 5).

(Re claim 30) "dispensing opening is defined by a perimeter and wherein said flap comprises a part of said perimeter" (18 figure 5).

(Re claim 31) "dispensing opening is defined by a perimeter and wherein said flap comprises a part of said perimeter" (18 figure 5).

Claims 1 and 20 rejected under 35 U.S.C. 102(e) as being anticipated by Reinke USPN 6,910,579.

Reinke discloses a dispenser comprising:

(Re claim 1) "dispensing aperture" (20 figure 2). "manipulating opening" (figure 2). "a flap for normally closing said manipulating opening" (22,24 figure 2). "wherein at least a portion of said dispensing aperture is comprised on said flap" (34,36 figure 2). "aperture and the manipulating opening are coverable" (21 figure 1).

(Re claim 20) "manipulating opening is closed by two flaps extending towards one another" (22,24 figure 2).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Margulies USPN 4,526,291 in view of Zaidman USPN 6,394,298.

Margulies discloses the dispenser as claimed in claim 2.

Margulies does not disclose a locking member when depressed allows the lid to spring open.

Zaidman teaches the use of a depressible locking mechanism, which allows the lid to spring in to an open position.

It would be obvious to one skilled in the art to modify the opening mechanism of Margulies to include the aspects as taught by Zaidman because it allows for single hand opening.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Margulies USPN 4,526,291 in view of official notice.

Margulies discloses the dispenser as claimed in claim 1.

Margulies does not disclose the package being sealed by foil.

Examiner takes official notice that foil over the openings of moistened article dispensers is common in the art as it prevents the drying of or leaking of fluids.

It would be obvious to one skilled in the art to seal the opening of Margulies with a foil barrier because it prevents the drying or leaking of fluids.

Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Margulies USPN 4,526,291 in view of Ross USPN 3,982,659.

Margulies discloses a dispenser comprising:

(Re claim 24 and 25) "dispensing aperture" (8 figure 5). "manipulating opening" (44 figure 5). "a flap for normally closing said manipulating opening" (10 figure 5). "wherein at least a portion of said dispensing aperture is comprised on said flap" (20 figure 5). "aperture and the manipulating opening are covered by a lid" (figure 2).

Margulies does not disclose it being a tissue package cover.

Ross teaches a dispenser that is usable for a tissue package cover.

It would be obvious to modify Margulies to be usable as a tissue package cover because it expands the marketability of the dispenser.

(Re claim 26) "dispenser is integrally molded with the cover" (30 figure 2, Ross).

***Allowable Subject Matter***

Claim 19 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPN's 3,836,044, 4,535,912 and 6,382,476.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy R. Waggoner whose telephone number is (571) 272-8204. The examiner can normally be reached on Mon-Thu 8am-2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TRW

  
GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER